

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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EVE WEXLER, on behalf of herself and
All others similarly situated,

Plaintiff,

-against-

AT&T CORP.,

Defendant.

STATUS REPORT

Case No. 15-CV-0686 (FB) (PK)

PLAINTIFF'S REPLY TO STATUS REPORT ORDER

Plaintiff, Eve Wexler, pursuant to this Court's Order dated April 11, 2018 [**No Docket Entry Number**] instructing Plaintiff to file a status report addressing her proposed next steps in this action, hereby states as follows:

1. This case was filed on February 11, 2015 [**DE 1**].
2. At the time this case was filed, Dr. Wexler was represented by her husband, attorney Shimshon Wexler, who has since withdrawn as class counsel [**DE 44**].
3. At the time of his Withdrawal, Plaintiff's counsel represented that "Mr. Wexler will not be entitled to any share of any attorney fees recovered in this case, but may seek to petition the Court for quantum meruit only for the work done prior to his withdrawal. [**DE 42**]"
4. On or about March 24, 2017 Defendant filed a Motion to Strike [**DE 49**] on the basis that Dr. Wexler held a financial interest antagonistic to the proposed class

because her husband, indicated that he would petition this Court for an award of attorney fees from the class recovery for work performed prior to his withdrawal.

5. On or about February 7, 2018, This Court Issued a Memorandum and Order [DE 52] granting Defendant's motion and concluding that Dr. Wexler could not adequately represent the interests of absent class members because she has an interest in a possible fee award to her husband.
6. Subsequent to this Order, Mr. Wexler has agreed to waive 100% of his attorney fees, has agreed to waive any lien or quantum meruit claim he may have for fees, and will not seek a penny of attorney fees as it was never his intention to impact any class proceeding.
7. As such, Plaintiff intends to seek leave from the District Court to amend her Complaint to re-add class allegations to her-amended Complaint because Mr. Wexler has agreed to forego any fee whatsoever, even fees for work already done on this case, the issue with which the Court addressed concern in the Memorandum and Order [DE 52] is no longer present in this case
8. The undersigned anticipates filing Plaintiff's Motion for Leave to file the Amended Complaint no later than May 1, 2018.

Respectfully submitted this 17th day of April, 2018.

s/ James S. Giardina

James S. Giardina

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CERTIFICATE OF SERVICE

I, James Giardina, hereby certify that on this 17th day of April 2018, I personally served this Status Report via First Class Mail with the United States Postal Service, with courtesy copies by email to the following recipients:

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s/ James S. Giardina
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